

### REMARKS

Applicant is submitting herewith drawings that overcome the examiner's objection to the drawings.

### PRIOR ART REJECTIONS

In response to the Examiner's rejection of Claims 1-3, 6-8, 11-13, 22-24, 27-28 under 35 U.S.C. 103 as being unpatentable over Don Best Sports in view of US Patent No. 5,830,068 to Brenner et al. and claims 5, 10, 21, 26 and 29 as being unpatentable over Don Best Sports in view of Brenner and further in view of US Patent No. 6,393,437 to Zinda et al, the rejections are improper because the examiner has not established a *prima facie* case of obviousness.

As set forth in MPEP 2143, "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

In the present case, the examiner has not established a *prima facie* case of obviousness because, for each independent claim, the combination of prior art does not teach or suggest all of the claims limitations.

#### Claims 1-3 and 5

Claim 1 recites, in part, "providing means for a display of real time odds and information, including a bet tracker, a major line move alert, or a line seeker alert" which is not taught or suggested by the prior art cited by the examiner. In particular, the Brenner does not teach or suggest this element. Furthermore, Don Best Sports does not teach or suggest this element. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not have a bet tracker, line seeker alert or the major line move alert. *See Corbo Declaration at paragraph 5d*. The evidence that Don Best I did not have these elements is set forth in a web page from Don Best Sports (*Exhibit*

2 to the Corbo Declaration) marketing the different services and distinguishing Don Best I from DSB2K which is the subject of this patent application. Thus, Don Best Sports does not teach or suggest this element. Therefore, the examiner has failed to establish a prima facie case of obviousness and the rejection should be withdrawn.

Furthermore, claim 1 recites “providing means for downloading and storing, on the user's computer, information about occurrences in connection with odds, analyzing said information and alerting the user when a predetermined occurrence takes place in connection with the odds” which is also not taught or suggested by Don Best Sports. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not allow information to be downloaded and saved on a user's computer. *See Corbo Declaration at paragraph 5c.* Thus, Don Best Sports does not teach or suggest this element. Therefore, the examiner has failed to establish a prima facie case of obviousness for at least this additional reason and the rejection should be withdrawn.

The rejection of claims 2-3 and 5 should be withdrawn for at least the same reasons as claim 1.

Claims 6-8 and 10

Claim 6 recites, in part, “providing means for downloading and storing bets on the user's computer, analyzing the information, and logging and tracking bets for a total of winnings and losses” and “creating a program that utilizes an Internet connection to provide real time odds and information without utilizing a web browser, said real time odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” which are not taught or suggested by Don Best Sports. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not allow information to be downloaded and saved on a user's computer. *See Corbo Declaration at paragraph 5c.* Thus, Don Best Sports does not teach or suggest these elements. Therefore, the examiner has failed to establish a prima facie case of obviousness and the rejection should be withdrawn.

The rejection of claims 7-8 and 10 should be withdrawn for at least the same reasons as claim 6.

Claims 11- 21

Claim 11 recites, in part, “creating a program that utilizes an Internet connection to provide real time odds and information without utilizing a web browser, said real time odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” and “downloading and storing odds on the user's computer, and allowing for the display of odds on the user's computer to be manipulated for a more efficient use of said program” which are not taught or suggested by Don Best Sports. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not allow information to be downloaded and saved on a user's computer. *See Corbo Declaration at paragraph 5c.* Thus, Don Best Sports does not teach or suggest these elements. Therefore, the examiner has failed to establish a prima facie case of obviousness and the rejection should be withdrawn.

The rejection of claims 12-19 and 21 should be withdrawn for at least the same reasons as claim 11.

Claims 22- 24 and 26

Claim 22 recites, in part, “a program that utilizes an Internet connection to provide real time odds and information information without utilizing a web browser, said real time odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” and “means for downloading and storing, on a user's computer, occurrences in connection with the odds analyzing the information and alerting a user when a predetermined occurrence takes place in connection with the odds” which are not taught or suggested by Don Best Sports. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not allow information to be downloaded and saved on a user's computer. *See Corbo Declaration at paragraph 5c.* Thus, Don Best Sports does not teach or suggest these elements. Therefore, the examiner has failed to establish a prima facie case of obviousness and the rejection should be withdrawn.

The rejection of claims 23-34 and 26 should be withdrawn for at least the same reasons as claim 22.

Claims 27-29

Claim 27 recites, in part, “creating a program that utilizes an Internet connection without utilizing a web browser, to provide real time odds and information, said real time odds and information being downloaded and stored on a user's computer, and wherein said program being incapable of placing bets” and “providing means for customizing the program so that the program downloads and stores, on the user's computer, occurrences connected with odds offered by one sports book or a predetermined number of sports books, processes said downloaded information, and alerts the user when a predetermined occurrence takes place in connection with the odds offered by one sports book or a predetermined number of sports books to enable the user to acquire the information he needs automatically” which are not taught or suggested by Don Best Sports. In particular, the previously submitted declaration by Mr. Corbo establishes that the Don Best Sports system (indicated as Don Best I in the declaration) did not allow information to be downloaded and saved on a user's computer. *See Corbo Declaration at paragraph 5c.* Thus, Don Best Sports does not teach or suggest these elements. Therefore, the examiner has failed to establish a prima facie case of obviousness and the rejection should be withdrawn.

The rejection of claims 28-29 should be withdrawn for at least the same reasons as claim 27.

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CONCLUSION

In view of the above, it is respectfully submitted that Claims 1-3, 5-8, 10-19, 21-24 and 26-29 are allowable over the prior art cited by the Examiner and early allowance of these claims and the application is respectfully requested.

The Examiner is invited to call Applicant's attorney at the number below in order to speed the prosecution of this application.

The Commissioner is authorized to charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 07-1896.

Respectfully submitted,

DLA PIPER US LLP

Dated: January 24, 2008\_\_\_\_\_

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